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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09-768,803	01-24-2001	Charlotte Johansen	5248.210-US	3908

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EXAMINER

MARX, IRENE

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 02-25-2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/768,803

Applicant(s)
Johansen

Examiner
Irene Marx

Art Unit
1651



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☒ Certified copies of the priority documents have been received in Application No. 09/133,149.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s).
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 20) ☐ Other:

The application should be reviewed for errors.

The status of the parent case(s) should be updated.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is vague, indefinite and confusing in that the respective amounts of enzyme, halide source and ammonium source are not claim designated. Thus the extent of "cleaning, disinfecting or inhibiting microbial growth" cannot be determined. Moreover, it is unclear whether "cleaning" or "disinfecting" do or do not pertain to microbial growth from this context.

Claims 2-7 are confusing in the recitation of "obtainable", since it is unclear under which circumstances the enzymes is "obtainable" from these sources. Amendment to --obtained-- would be remedial.

Claim 1 is vague, indefinite and confusing in the compounds intended are not clearly delineated due to the multiple use of substituents at R1, R2 and R3 having undefined branching and substituents.

Claim 1 is vague and indefinite in the recitation of "and esters and salts thereof" at lines 15 and 16, for example. Is --or esters or salts thereof-- intended?

Claim 1 is confusing in that the intended meaning of "carbonyl-C₁-C₅-alkyl" or "aryl-C₁-C₅-alkyl" is not manifest.

Claims 18-20 are confusing in the recitation of "corresponds to" with respect to the concentration of the various sources. The amounts intended are unclear from the context.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen taken with Winkler and Cantor *et al.*

The claims are directed to a method of using a haloperoxidase composition comprising a haloperoxidase, a hydrogen peroxide source, a halide source and an ammonium source to clean, disinfect or inhibit microbial growth on a hard surface.

Allen teaches a method of using haloperoxidase composition comprising a haloperoxidase, a hydrogen peroxide source, a halide source and an ammonium source to clean, disinfect or inhibit microbial growth on any surface by producing hydrogen peroxide (See, e.g., columns 6-7). The reference differs from the claimed invention in that the amino acids used do not have the claim designated structure of the ammonium source.

However, Winkler teaches that compounds such as mono-, di- and triethanolamine are suitably added to haloperoxidase compositions to produce the desired hydrogen peroxide having intrinsic disinfecting and cleansing properties. (See, e.g., col. 5, in particular line 51). In addition, Cantor *et al.* adequately demonstrate that ammonium compounds of the claim designated formula are suitable additives to detergent compositions in view of their surfactant and/or germicidal properties (See, e.g., col. 4).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the claimed invention was made to modify the method of Allen by providing various ammonium sources as suggested by the teachings of Winkler and Cantor *et al.* for the purpose of buffering and for the expected benefit of improving the germicidal and cleaning properties of the haloperoxidase composition.

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Thus, the claimed invention as a whole was clearly prima facie obvious, especially in the absence of evidence to the contrary.
No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irene Marx whose telephone number is (703) 308-2922. The examiner can normally be reached on Monday through Friday from 6:30 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn, can be reached on (703) 308-4743. The appropriate fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592, (703) 308-4242 and (703) 305-3014.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service whose telephone number is (703) 308-0198 or the receptionist whose telephone number is (703) 308-1235.



Irene Marx
Primary Examiner
Art Unit 1651